

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Ellery J. Pettit,
 Plaintiff

Case No.: 2-11-cv-00149-JAD-GWF

vs.

Federal National Mortgage Association;
 Mortgage Electronic Registration Systems, Inc.;
 Seterus, Inc.,

Defendants

**Order Regarding Plaintiff's
 "Objections" to Order Dismissing Case**

This action arises out of pro se Plaintiff Ellery J. Pettit's default on his condominium mortgage. After Mr. Pettit disavowed any intention to state a wrongful foreclosure claim, and the amendment of his complaint failed to yield a ripe and cognizable claim for relief, the Court dismissed his declaratory relief action. Doc. 68. A Clerk's Judgment in favor of the Defendants was entered the following day. Doc. 69. Twenty-seven days later, Mr. Pettit filed a document entitled "Plaintiff's Objections to Orders and Judgment—FRCP 46" and a notice of appeal. Docs. 72, 73.

Defendants ask the Court to strike Mr. Pettit's objections, Doc. 76, and Mr. Pettit has asked for an enlargement of time to oppose that motion. Doc. 78. The Ninth Circuit Court of Appeals apparently construes Mr. Pettit's objection as a tolling motion under Rule 4(a)(4) of the Federal Rules of Appellate Procedure. *See* Doc. 75. This Court is of the opinion that the most fair and judicially economical way to handle this "objection" by this pro se plaintiff and handle the Defendants' motion to strike it is to liberally construe the objection as a timely¹ motion to alter or

¹ The motion was filed on the 27th day following the entry of the judgment. *See* Doc. 72; Fed. R. Civ. Proc. 59(e); Fed. R. App. Proc. 4(a)(4)(A)(iv).

1 amend the judgment under Rule 59(e) of the Federal Rules of Civil Procedure, *see Bernhardt v. Los*
2 *Angeles Cnty.*, 339 F.3d 920, 925 (9th Cir. 2003) (acknowledging that courts must construe pro se
3 motions and pleadings liberally), and permit the Defendants to respond to the motion on its merits.

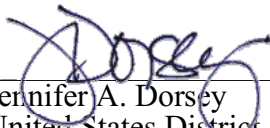
4 Accordingly, with good cause appearing:

5 IT IS HEREBY ORDERED that **Mr. Pettit's Objection [#72] shall be construed as a Rule**
6 **59(e) motion to alter or amend the judgment;**

7 IT IS FURTHER ORDERED that Defendants' Motion to Strike the Objection [#76] is
8 **DENIED**; instead, Defendants shall have 15 days from the date of this order within with to file any
9 response to the Rule 59(e) motion; Mr. Pettit shall then have 7 days thereafter to file any reply brief
10 in support of his Rule 59(e) motion. The parties are cautioned that any such brief must comply with
11 Local Rule 7-2 and 7-4.

12 IT IS FURTHER ORDERED that Mr. Pettit's Motion to Extend Time to oppose the
13 Defendants' Motion to Strike [#78] is **DENIED** as moot (because the motion to strike is herein
14 denied).

15 DATED April 14, 2014.

16 
17 _____
18 Jennifer A. Dorsey
19 United States District Judge
20
21
22
23
24
25
26
27
28